

# MEMORANDUM

July 8, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: RANDOLPH M. EVEN  
Randolph M. Even & Associates

OWEN L. GALLAGHER  
Principal Deputy County Counsel  
General Litigation Division

RE: Oscar Nunez, individually, and as Guardian Ad Litem for Oscar  
Damian Nunez v. County of Los Angeles  
Los Angeles Superior Court, North Valley District Case No. PC033247

DATE OF  
INCIDENT: February 20, 2003, through February 27, 2003

AUTHORITY  
REQUESTED: \$350,000

COUNTY  
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

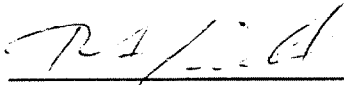
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## CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☒ Recommend to Board of  
Supervisors for Approval

  
\_\_\_\_\_, Chief Administrative Office  
**ROCKY A. ARMFIELD**

  
\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

  
\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on August 1, 2005

## SUMMARY

This is a recommendation to settle for \$350,000, the wrongful death lawsuit brought by Oscar Nunez (husband) and Oscar Damian Nunez (minor son) for the death of Robin Garcia subsequent to her discharge from Olive View/UCLA Medical Center on February 20, 2003. There is no Medi-Cal lien.

## LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

## SUMMARY OF FACTS

On February 17, 2003, Robin Garcia, a 21-year-old woman, was seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of abdominal pain, nausea, vomiting, and a yellowish coloring of the skin (jaundice). Medical personnel determined that Mrs. Garcia was suffering from an inflammation of the liver (hepatitis). Laboratory tests were performed and sent to Rancho Los Amigos National Rehabilitation Center's laboratory for analysis to help determine the cause of Mrs. Garcia's hepatitis.

On February 20, 2003, Mrs. Garcia was discharged. Although medical personnel were awaiting the results of laboratory tests, and intended to discuss the results of those tests with Mrs. Garcia during a follow-up appointment to be scheduled on or before February 27, 2003, Mrs. Garcia was discharged with no follow-up appointment being scheduled.

On February 21, 2003, Mrs. Garcia was sent a notice that a follow-up appointment had been scheduled on March 10, 2003.

On February 25, 2003, results of Mrs. Garcia's laboratory tests indicated that she was suffering from a form of hepatitis resulting from an alteration of the normal function of the body's immune system (autoimmune hepatitis).

On March 3, 2003, Mrs. Garcia was seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of nausea, vomiting, dizziness, and jaundice. Laboratory tests confirmed a worsening of her liver function. Although Mrs. Garcia received medication intended to treat her autoimmune hepatitis, her condition continued to deteriorate.

On March 6, 2003, Mrs. Garcia was transferred to UCLA Medical Center (private facility) for a possible liver transplant. However, Mrs. Garcia's condition continued to worsen and deteriorate, precluding the possibility of a liver

transplant. On March 11, 2003, Mrs. Garcia died. An autopsy performed by the Los Angeles County Coroner attributed the cause of death to complete liver failure, resulting from autoimmune hepatitis. Medical experts will testify that Mrs. Garcia's liver failure was due to the failure to timely treat her autoimmune hepatitis before March 3, 2003.

## DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Oscar Nunez,	
Loss of Future Support	\$ 875,000
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 125,000
Oscar Damian Nunez,	
Loss of Future Maternal Services	\$ 480,000
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 125,000
Funeral Expenses	\$ <u>6,300</u>
TOTAL	\$1,611,300

The proposed settlement includes:

Oscar Nunez,	
Loss of Care, Comfort and Companionship	\$118,520
Oscar Damian Nunez,	
Loss of Care, Comfort and Companionship	\$118,520
Funeral Expenses	\$ 6,300
Attorneys Fees (MICRA Estimate)	\$ 96,660
Costs of Litigation	\$ <u>10,000</u>
TOTAL	\$350,000

## STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through June 22, 2005, are attorneys fees of \$22,216 and \$10,736 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$350,000
County Attorneys Fees and Costs	<u>\$ 32,952</u>
TOTAL	\$382,952

## EVALUATION

Medical experts will be critical of the failure of medical personnel to schedule Robin Garcia for a follow-up appointment on or before February 27, 2003. This failure fell below the standard of care, resulted in a missed opportunity to treat Mrs. Garcia's autoimmune hepatitis earlier, and is directly responsible for the results observed here.

We join with our private counsel, Randolph M. Even & Associates, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$350,000.

The Department of Health Services concurs in this settlement.